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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,394	11/30/2001	Petri Helio	460-010714-US(PAR)	9029
2512	7590	03/16/2006	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824				SHARMA, SUJATHA R
			ART UNIT	PAPER NUMBER
			2684	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/000,394

**Applicant(s)**

HELIO ET AL.

**Examiner**

Sujatha Sharma

**Art Unit**

2684

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

- (a)  They raise new issues that would require further consideration and/or search (see NOTE below);
- (b)  They raise the issue of new matter (see NOTE below);
- (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): claims 10-17 and 19.

6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 10-17 and 19.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-6 and 8.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

\_\_\_\_\_

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 10/17/05

13.  Other: \_\_\_\_\_.

Regarding claim 1, the applicant argues that the primary reference does not disclose a method of "changing the frequency of atleast one reference signal"

The examiner respectfully disagrees and draws the attention of the applicant to the Cahill reference and particularly to Fig. 1 where the reference signal from the local oscillator 109 is fed to the filter 113. Further the Cahill reference discloses a method where in after the BER estimation the filter bandwidth is tuned accordingly thus changing the frequency of the reference signal. See col. 4, line 55 - col. 5, line 25. Therefore the rejection of the claims 1-6 as discussed in the office action mailed 10/20/05 is considered proper.

Regarding claim 8, the applicant argues that the combination of Cahill and Liu does not disclose a method where the determination of the location of the passband filter is made on the basis of the measurement of the output signal of the filter.

Again the examiner respectfully disagrees and draws the applicant's attention to the Cahill reference especially to Fig. 5 and col. 4, line 55 - col. 5, line 25 where the signal output from the filter is estimated and compared to a threshold before optimizing the filter passbands. Further the applicant argues that in Cahill reference the change in bandwidth of the passband filter is not made directly on the basis of the signal measurement. However, this feature is not claimed and therefore the rejection of the claim 8 as discussed in the office action mailed 10/20/05 is considered proper

Regarding claim 10-17 and 19, the applicant's argumets are persuasive and therefore the rejection of the claims 10-17 and 19 are withdrawn

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